

A divorce over the phone is valid, just like doing so in person. If it's through texting/writing, it depends on the intention of the husband.

## GEMS OF MARRIAGE AND DIVORCE

Adapted from the lessons of the noble  
shaykh Ahmad Mūsā Jibrīl حفظه الله

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Letters	Pronounced as	As in
ā	aa	حَرَام
ī	ee/ie	حَدِيث
ū	ou/oe	سورة

### About the shaykh...

Shaykh Ahmad Mūsā Jibrīl حفظه الله was born in the United States, 1971, and spent part of his childhood in the city of Madinah. His father, Shaykh Mūsā Jibrīl, was a student at the Islāmic University of Madinah. It was there where Shaykh Ahmad memorized the Qur'an at the age of 11. He memorized Sahīh al-Bukhārī and Sahīh Muslim before graduating from high school. The shaykh spent the rest of his younger years back in the United States graduating from high school in 1989. He later on memorized the chains of Bukhārī & Muslim, then memorized the 6 books of Hadīth. Thereafter, he studied at the Islāmic University of Madinah as his father did, and graduated with a degree in the Shar'īa.

The Shaykh has also travelled to other countries such as Egypt and Jordan to study. He then returned to the United States and finished his JD/LLM [master of law, labour law] degree from Michigan law schools. He now currently resides in Detroit, MI.

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أَنْ تَمْسُوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَّةٍ تَعْتَدُونَهَا فَمَتَّعُوهُنَّ  
وَسَرَّحُوهُنَّ سَرَاحًا جَمِيلًا

*[O ye who believe! When ye marry believing women, and then divorce them before ye have touched them, no period of 'Iddat have ye to count in respect of them: so give them a present. And set them free in a handsome manner.]*

﴿ سورة الأحزاب: 49 ﴾

### 1. THE MEANING OF NAKAHTUM [نَكَحْتُمْ]

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ

- Shaykh: Nakahtum [نَكَحْتُمْ], okay the first word is nakahtum. Kaylānī, what's nakahtum?
- Student: nakahtum means marriage but doesn't mean you have sexual relationship.
- Shaykh: okay, it means marriage but what else does it mean? If a shaykh comes and he does the 'aqd, two witnesses, the mahr, you know the four rules, yes and no, if he does that and the guardian approves of it then that's nikāh. But there's another meaning for nikāh. What is it? Sexual relationship between a husband and a wife is also nikāh. It has two meanings. In this verse, it means marriage. So nikāh has two meanings; first is sexual relationship, the second one is just the mere marriage itself and over here it means marriage. The next: Allāh Says:

if you marry al Mu'mināt.

What's al Mu'mināt? Female believers. Allāh Says:

إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ

If someone reads this, at face value, he's going to say: "marrying a non-Muslim is harām". Right or not? Because: إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ. He didn't say, the Jews and the Christians [the People of the Book]. If you look at it face value just like this and you know Arabic, you're going to say that Allāh means to only marry the female believing women. But are we allowed to marry the People of the Book? Are we? But it contradicts with this verse? How are you going to combine with them?

- Student: before you make a ruling you can't just look at one verse. You have to look at all the verses.
- Shaykh: exactly! Exactly! That's why you have to be knowledgeable of Islām. I've heard some people, that's why I made a comment, you know, "al Mu'mināt, oh, we know what Mu'mināt is". I heard some people say this verse that it's harām to marry the People of the Book. That's

not right, you don't take one verse out of the Qur'an and say: "Wallāh look, I found it here". No. you have to be scholarly to pull out things that's why we have scholars. You can be a scholar yourself or ask the people of knowledge. But you cannot come up and say: "Wallāh, I'm going to read the Qur'an and pull out a few verses and look what it says here". You got to take the Qur'an collectively. Allāh said in Sūrah al Mā'idah verse 5:

وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ

[Lawful unto you in marriage] are [not only] pious women who are believers, but pious women among the People of the Book].

What does "pious" mean there? I heard a fatwā a few months ago that someone was asking if he can marry a Christian or Jewish woman. He said: "yes but she has to be a virgin". That's gonna be a problem these days, you know if you go and read the statistics of the High Schools, the people there of 14, 15, 16 year. I don't know if you watch Jerry Springer, but you see as young as 13 and up it's not the exception, it's the exception to see a virgin on High School today, in Junior High even.

So, does it mean you can't marry a woman like that? It means that she should be pious. You can't marry a woman who's going around playing. It doesn't mean she got to be a virgin, she never did anything in her past, it means when you marry her, you better make sure she's not playing around because if you do take a woman like that, you are a dayyūth. The Prophet صلى الله عليه وسلم said:

لا يدخل الجنة ديوث

*A dayyūth never will enter heaven.* He will never smell heaven in another hadīth. Allāh Says:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ

[O you who believe! When you marry believing women]

And then you got the verse where Allāh Allows you to marry the People of the Book, Allāh is trying to recommend to you. Yeah, you can marry the People of the Book but indirectly I'm recommending to you the believers. This is how you take the Qur'an collectively. In another verse in Sūrah al Baqara, Allāh clearly Said it:

وَلَأَمَةٌ مُؤْمِنَةٌ خَيْرٌ مِّنْ مُّشْرِكَةٍ

[A slave woman who believes is better than an unbelieving woman].

So, it's not to strict the Mu'mināt only, it's just to recommend that you Muslims marry believers because they're more pious, they protect your honour, they protect your religion. The non-believers have certain tradition that are different. I say, and I know from experience, I wouldn't recommend it. Actually, I believe it's harām for a Muslim to marry a non-Muslim woman although originally, it's

halāl. No one can say it's harām, but the situation changed to the point that I believe it's harām. Anyone who ask me about it, I tell him: "you shouldn't do it". Why? Because when the man used to marry a non-Muslim woman, he was the man who could divorce her and bring her back. She was under his control. More than that, he had control over the kids you know, she's not going to take them and raise them in a church, he's going to take them under an Islāmīc Khilāfah and raise them himself.

Today, I know a guy it's supposedly named a shaykh, he divorced his wife, an American who stayed 15 years with him. Wallāhī, his children today are Christians. He passed away, may Allāh forgive him. And it's not an exception this is the norm so it's dangerous to marry them now. If you want to take her and take her overseas to a country, where at least they give you the kids, the main thing is the kids you know, if you can do that, then we say that the situation is different, but the way the situation is in the United States as you know especially in Michigan, one of the laws that sides with the woman more than any other state probably. So, this is not Islāmīc if you know you may be a cause for you to cause a new generation to become Christian, Catholics or Jewish, then you're going to be cursed by Allāh. You know, they are going to have kids, your kids, and then they are going to have grandkids and probably they continue to the last day before the Judgement Day. Who's the seed of this? You! So, that's dangerous.

## 2. THE MEANING OF THUMMA [ثُمَّ]

Allāh said:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ

Why did Allāh use "thumma [ثم]"? Allāh use thumma. Marriage then thumma, talāq. Marriage – thumma – talāq. He could have used 'aw' [أو] he could have used 'wa' [و], but he used thumma. There's many other statements that he could have used. Why did Allāh say:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ

'Nakahtum', the word here is marriage. The word here is divorce. If you marry and then divorce. Why did Allāh use 'thumma' instead of 'aw' or 'wa' or 'fa'. All these mean the same thing: "and then". Because the eloquence of the Qur'an is unique. Look how unique the Qur'an is. You use this word, which – I mean if I were to talk in Arabic and I use any of these words, it's all the same. However, the eloquence of the Qur'an is special. Thumma has a special, unique meaning to it which is: "after, an extended after". Meaning: you don't marry and divorce right after it. 'Aw', 'wa', 'fa' could be like a short period of time. Thumma – extended, meaning exert all your efforts and trying to work it out, and then divorce it. That's a special, unique meaning in thumma. That's why He uses thumma instead of 'aw' and 'wa' and 'fa'. Why? Because of course as you know, divorce is halāl.

As you know, divorce is halāl. The Prophet صلى الله عليه وسلم as you know divorced, he divorced al Musta'ida<sup>1</sup> and it's no problem with divorce and it's not bad in that. The person who does it is not

<sup>1</sup> Al Musta'ida, the Prophet صلى الله عليه وسلم married her and went to have relationship with her, sexual relationship with her and she said: "I seek refuge in Allāh from you". The Prophet said: "go back to your

outcasting the community like the Christians believe. You know the Christians believe, actually I think they had it banned for a certain period of time and if you have – like the President – there was a certain stage in the United States that if he divorced his wife he cannot even nominate himself to be a president. It's like a black dot on him. In Islām we don't have that, however we do have levels you got to go through before you divorce cause it's thumma;

## نَكَحْتُمُ الْمُؤْمِنَاتِ \* ثُمَّ \* طَلَقْتُمُوهُنَّ

### 2.1 Levels:

#### فَعِظُوهُنَّ

1. *Talk to them.* You know, you communicate to your wife. Maybe she doesn't know what's wrong, you teach her what's wrong from what's right. The second one;

#### وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ

2. *Don't sleep with them.* Why is it don't sleep with them? Because when a man sleeps with a woman it's sorts of a weapon she has on him. He has desires for her and it's a weapon she has against him. So, if she loses that weapon, then she's going to reconsider; "o, he doesn't need me anymore", she's going to reconsider what she's doing. The third one after that:

#### فَاضْرِبُوهُنَّ

3. *And that's to hit them.* All the guys got happy now. You know, they said: "o, cool". And that's of course darb [ضرب], the Prophet صلى الله عليه وسلم taught us what it is, it's hitting in a manner that doesn't harm them. You know like the Prophet صلى الله عليه وسلم did, he took one time the edge of his thobe and he hit one of his wives with it and a decent woman sees that as though you know, he made her black and blue. Cause that's tough for a man to do something like that who never does that. So, these are the three levels of a man. The same with the woman. She has to go through certain steps, those don't have to go through that kind of steps, but for example he doesn't pray, she warns him, she brings other people to speak to him. if that doesn't happen, she should ask for divorce, especially if it's a matter of harām and halāl. If he does something prohibited in the house, if he drinks in the house, she should warn him, talk to him, if she reaches a certain level, that she should file and ask for divorce.

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mother's house". You know, he told her go back. From that day, she said: "I live in agony that I was not from among the women that the Qur'an said about them:

"أَرْوَاحُهُمْ أُمَّهَاتُهُمْ"

[His wives are their mothers].



### 3. THE MEANING OF TAMASUHUNA [تَمَسُّوهُنَّ]

The next one, تَمَسُّوهُنَّ. Kaylānī, what's تَمَسُّوهُنَّ mean?

- Student: touch them.
- Shaykh: touch them. Literally touch them? Okay, what's the other meaning? Brothers, help us out, you guys know Arabic. What's تَمَسُّوهُنَّ mean? Touch them?
- Student: sexual relationship.
- Shaykh: that's right, sexual relationship. Literally it means two things; it means the 'aqd, the marriage itself is nikāh, the sexual relationship is nikāh. تَمَسُّوهُنَّ is to touch them. If I say: مس الكتاب, 'I touched the book'. But it could also mean something else and this is only in the Qur'an which is تَمَسُّوهُنَّ means: sexual relationship. Why would Allāh use this word? Why would Allāh use this term when He could use another term? There's decent terms that we could use. Nikāh, we could use nikāh. We could use plenty of other decent terms in the Qur'an instead of تَمَسُّوهُنَّ. Who could tell me?
- Student: Allāh سبحانه وتعالى, when He talks about sexual things in the Qur'an, He uses the best, the most appropriate words and the most right words in the Qur'an. Allāh always uses the best and the most appropriate words.
- Shaykh: that's exactly right. Jazāk Allāh khayr. Mā Shā Allāh. You know, I was listening when I was a kid, when it first came out to Jimmy Swaggart and I only heard it once. The Jimmy Swaggart debate and Ahmad Deedat, you remember that? And Ahmad Deedat what stood in my mind – I think I was 13 or 14 that time – he told him: "I give you 100 dollars if you read this passage from the Bible" and he continued talking. When Jimmy Swaggart got up, he said: "where is it?" And he began reading it. After he read it, I knew why Ahmad Deedat said that. Because it's filth, you think you're reading something pornographic or something that's not in a Holy Book. It's something filthy, disgraceful, that described relationship. Wallāhī, you know, you think it's a nasty magazine or nasty site that he's reading from and he did read it, you know he has no shame, he did read it, then he went to Jimmy Swaggart and got his 100 dollars. He said: "I'm going to donate it to the electric bill." However, in Qur'an you don't find that.

When He is talking about sexual relationship we got three times of terms. We got straight terms and this is used. Some Sahābah used it. Qur'an is a higher standard! And this is the origin of the dispute between the Shāfi'īyyah and the rest of the scholars. The Shāfi'īyyah say: "you touch a woman? You got to make wudū." Cause Allāh said in the Qur'an in another verse:

#### أولامستم النساء

He said: "this is my proof". You touch a woman and you know, if you go to Hajj and you want to do this, you're making Tawāf around the Ka'bah and all that, you'll make wudū every two seconds. You know, you better have a lot of water because women over there are pushing you and you got to keep going back and forth. So, they took it to literal touching. If you just touch a woman, you know that's what I'm saying; in our old countries it's originally harām to shake hands with a woman but some of them, what do they do in our country? They put a Kleenex on their hand and they say "okay" [we can shake hands]. "So why Hajja are you doing this?" [having a Kleenex on your hand] – [She answers:]

“I’m on wudū, I don’t want my wudū to break.” You know, she’s doing a sin, but she doesn’t want her wudū to break.

تَمَسُّوْهُنَّ means sexual relationship and it means touching and that’s why ash-Shāfi’ī erred in saying that anyone who touches, a female who touches a man, or a man touches a female, their wudū invalidates, he took the words literally. Allāh meant: sexual relationship.

### أَوْ لَا مَسْتَمَ النَّسَاءِ

Sexual relationship. Now, that doesn’t mean you go around touching or doing something like that, that’s harām! But we’re saying, does it break the wudu or not? No, it does not break the wudū. Mere touching does not break the wudū.

## 4. THE MEANING OF ‘IDDAH [عِدَّة]

### عِدَّة

‘Iddah literally means to count, and what it means to count, is when I divorce a woman, she got to remain a certain period of time, where no one touches her, to see if she’s pregnant. This is the husband’s right, because Allāh said in the Qur’an:

### فَمَا لَكُمْ

To the man.

### عَلَيْهِنَّ مِنْ عِدَّةٍ

So, it is the man’s right, why is it the man’s right? Back then a man would get very jealous if his wife is pregnant and someone else is having relationship with her. Until now, a lot of Arabic people, Americans don’t really care, you now, the non-Muslim, the kāfir they don’t really care, but to have a woman who is pregnant with your son and someone else is having relationship with her, that’s something big. That’s number one reason. Another reason is, we know if someone divorces his wife then another person two days later has relationship with her, who’s the father? We don’t know who the father is. So there has to remain three months or so until we find out if she’s pregnant or not. The third reason for that is if he wants to go back and reconcile. They got three months to go back and reconcile.

### 4.1 Three reasons of ‘idda:

- Jealousy of a man, having the wife who’s pregnant and someone else is having relationship with her;

- If she's pregnant or not;
- Reconcile.

If I divorce my wife and I say to my wife: "you're divorcee", she's divorced, however I got three months. I can tell her "come back here". If I touch her, just touch her. If I verbally tell her "you're back my wife", she's back my wife.

#### 4.2 During that 'iddah-time he is still with his wife in the same house?

They got to remain together, they got to sleep in the same bed. That's how Islām deters divorce. If you're going to sleep with a wife for three months, side by side, she's next to you and you are not going to have relationship with her, you know, something is really wrong there. You know, something is really wrong. Could be the husband is gay or something.

\*Students laugh\*

\*Shaykh laughs\*

If I marry a woman, however, she's in her father's house and I'm in my house – like the Arabic people do, they rarely let you even, although she's your wife, he brings the shaykh, he brings the witnesses, he brings the dowry, the father says: "I'll let you marry my daughter". You do all the 'aqd, but she stays in her father's house and I'm in my house. And we never go alone together and then I divorce her. Something happens and then I argue with my father-in-law and I divorce her. Does she have to have a 'idda?

- Student: no.
- Shaykh: why not? She was married! What's the rules for marriage? Come on guys we went on this so many times. Number one rule for marriage. Don't look in your notes, you guys should know it!

1. 2 witnesses;

2. Mahr: dowry;

3. Guardian permission;

4. ... ?

- Student: a shaykh.
- Shaykh Ahmad: shaykh?! That's why I teach you this, you guys should go around marry people.

## 4. Verbal acceptance.

Let's say we do all this, 2 witnesses, the dowry specified, the dowry doesn't have to be paid, note that. It has to be specified or that you are going to talk about it in the future. Guardian permission, the acceptance has to be verbal, the man says: "I accept her", the woman say: "I accept him", the father say: "I allow him to get married". We have this, she's in her father's house and I'm in my father's house and then something happens, we never go alone together and I divorce her. There's no 'idda for that, like you said. Why?

- Student: he never touches her.
- Shaykh Ahmad: doesn't matter. Let's assume they go alone and don't touch each other. They supposedly are going to claim they don't touch each other. There's no 'idda. Why? Because of this verse, the verse we're talking about.

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَّةٍ تَعْتَدُونَهَا فَمَتَّعُوهُنَّ وَسَرَّحُوهُنَّ سَرَاحًا جَمِيلًا

If you marry a woman and then you divorce her without any relationship with her, and relationship also means, that they don't go alone. Because we don't take their word. They say: "o, nothing happened", we don't take their word, then there's no 'idda. The verse clearly specifies that.

## 4.3 How does a woman divorce in Islām?

- Student: court?
- Shaykh: court? What court? What court we got today? How's the woman divorce yā Kaylānī?
- Student: Khala.
- Shaykh: how does she do khala?
- Student: she goes to the judge and she ...
- Shaykh: what if you don't have a judge?
- Student: imām.
- Shaykh: what if you don't have an imām? Like now? What's the reason a man can divorce a woman?
- Student: he doesn't need a reason.
- Shaykh: He doesn't need a reason, really. It's not oppressive for a woman because I always say that; a woman should ask for dowry and she should ask for dowry that will make the man think two and three and ten times about divorcing her. If you go and pay one dollar to marry a woman, he's gonna say "what the heck, I'll divorce her any day and get another one for another dollar", if she asks for 5000 dollar, she may not need it, but she asks for 5000, that's gonna make the man, you know, it took a lot of time to gather this money and pay it for her. So, the woman should be wise, and we should teach the woman about this in the future. The Prophet صلى الله عليه وسلم said:

أَقْلِهْنِ مَهْرًا أَكْثَرَهُنَّ بَرَكَةً

The least in dowry is the most in baraka. What is that mean?

I just told you, you should ask for a large amount of dowry. Not a large amount but if you got someone who's coming to you, who's a car station worker, he has saved up 10.000 maybe ask for 8000. Call it some swag. However, don't go around, he has 10.000 and go and ask him for 20.000, which he could never do. Then that becomes a problem. But he has some amount of money saved, then ask so he can feel he's getting married. The hadith means "the lowest in their dowry is the most in barakah" is the mahr of those around them. Meaning: the Yemeni girls – and I always use this example – are going around for 20.000, some of them, 15.000 to 20.000 . that's the average dowry men pay for a Yemeni woman. The average, from what I know. A disrespectful woman comes, says: "no, I don't want to have 15.000, I'll take 8.000". that's أقلهن مهورا. She doesn't go: "oh, 15.000, no I take a mushaf, or a dollar". No, that's not the right way to do it. Then if he divorces her, she regrets it. If he divorces her when she has the 8.000, no he's going to think about it, it's going to be a major problem. A man can divorce for any reason he should go through the steps we talked about, a woman can do the same thing. She can divorce a man for any reason. However, what's the exception here?

The man only says: "you're a divorcee" and she's done. How does a woman divorce a man? How's the khula? She has to go to a shaykh, now we have a shaykh, why you go to a shaykh, because we don't have a khalifah or imām. If there was a khalifah, you go to the khalifah. You don't have that, you go say "I want to divorce my husband". Why does that matter? He could try to work things out, reconcile, wait a year, that's what we always do. However, after that, she has to give him the dowry back. She can divorce, but she got to give him the dowry back. She got to give anything she asked for! For example: she said I want a marriage in the Ritz Carlton hotel, it costed him 15.000 dollars, she requested it in the marriage, then she got to pay him back for that and then the judge will either tell them "you divorce" by force, if she doesn't, the judge will say: "I separate between you two" and that's it. She can remarry again, he can remarry again.

If it's the man divorcing, if I'm the man, I get nothing back [of the dowry]. If she's divorcing me, yes, she has to give everything back, because she asked for divorce. If it's for religious reason, some scholars say no, like he doesn't pray, you don't give the mahr back.<sup>2</sup> The one who has the mahr owns the marriage. The man owns it, because he pays the mahr. The woman does the same thing but she has to pay the mahr back. That's the way it is. That's the only way makes sense.

- Student: but they can't get back after khula'?
- Shaykh: no, they can't get back after khula'. However, she can do it for any reason, the only difference is; she has to go to a shaykh.

You gave them the dowry! Allāh says in the Qur'an:

### The ones you gave them the dowry.

<sup>2</sup> The woman can ask for divorce, however, in English it sounds the same, but there are two different meanings in Arabic. Talab at-talāq [طلب الطلاق] and talab al khula', ikhtilā' [طلب الخلع].

If she asks for at-talāq, because [e.g.] her husband drinks, is addicted to drugs then she doesn't need to give him the dowry back and there's a 'idda for 3 months. If she asks for khula' because she doesn't want to stay with him, she doesn't give him his rights, she got to give him everything back.

What does that mean: “you gave them the dowry”? You don’t have to give a woman the dowry when you initially get married, you don’t have to specify it, however, the Prophet صلى الله عليه وسلم always to all his wives gave the dowry right in front before he had relationship with her and during the time when the ‘aqd was made. Who knows why? Although you don’t have to do that, the Prophet did that. He always gave the dowry beforehand. To show that it’s the best and all the Sahābah followed in his footsteps. Meaning: you get married and [the woman] says: “I want a diamond ring”, you don’t say: “o, I’ll give it to you three weeks after the marriage”. You give it to her right before, right, when this ceremony is going on over here, you give it to her. Why? That’s the best thing and that’s how it should happen. The question comes: can you have part of the dowry given now and part of it later like a lot of Arabic people do? We do this a lot. Some people put a mu-akhar [المؤخر], you are not supposed to have that in Islām. I say [i.e.]: you can marry my sister if you pay 10.000 \$ now and if you’re going to divorce her, only if you’re going to divorce her, you pay a 100.000 \$. Some people put a million dollar. Million. You know, they say: “okay if you divorce her you do that”. This is harām, actually I believe it’s harām. Why? Because you’re restricting something, you’re trying, you’re aiming to restrict something that Allāh permitted. Someone who has got a 100.000 \$, he’s not going to divorce her, and the father and the brother think they’re wise in doing that, when they’re actually stupid. Why? Because you got a million dollar on you to divorce her, if I had a wife like that, I’ll beat the heck out of her every day. Every day I’ll beat the heck out of her until she runs to the street and says: “I just give it up! Anything, just give me a divorce and I forgive you for the million dollar!” And that’s what happens. So, we shouldn’t restrict that. We should choose a reputable man. If you choose a reputable man, don’t worry about him. Don’t worry about that but when you start being financial and you’re into money, like most people are, and that’s how they judge people then they restrict a 100.000 \$ or a million or whatever it is if he wants to divorce her.

Most scholars say – and this is the Fatwā of ibn ‘Uthaymīn – let’s assume right now you’ve found out you have 10.000 \$ on you. You got 10.000 \$ if you marry her and 10.000 \$ if you divorce her. You didn’t know it was harām initially. You have it right now. That dowry becomes that you must give it to her right now. You add the 10 to the 10 and her dowry is 20.000 \$. She either forgives you or has the right to it.

- Shaykh: Na’ām?
- Student: what if I give her one dollar, that’s not harām?
- Shaykh: no, if she accepts 50 cents, I’m talking about what the best should be, but if she accepts that, that’s fine.
- Is that makrūh?
- Shaykh: I don’t know if you can say that it is makrūh, I think it all falls under mubāh, but you got levels of mubāh. If she doesn’t know that she could ask what she wants, she should be well aware, that she could ask what she wants, because then it could be oppressive to her. If it turns out once he divorces her, she would say: “what kind of religion is this? He just says ‘you’re divorcee’ and I’m gone? And that’s it? If it was in America I would get a house, I would get a car and all that.” She should be aware that she could ask about anything. At least! I don’t know if you can go to the point and say “it’s makrūh”.
- Student: I really don’t see the point of asking a really high mahr, cause the mahr does not save the divorce. If I marry this woman, I give her the mahr, and then in the future I want to divorce her, that’s it, I gave her the mahr. Now, you say, you should ask for a very high mahr and if I pay her a very high mahr, this is a bad thing!

- Shaykh: you got to keep in mind in khulu if you drive her crazy to do khulu and it's your fault you don't get nothing back.<sup>3</sup> If a supposed Muslim doesn't pray and she asked for divorce because he doesn't pray, he doesn't get nothing. We are saying, khulu based on her reasons. For example: he doesn't look good. She's already seen him but now she decided "o, he's not cute enough" or "I don't like his job" or "he doesn't spend a lot of time with me", these are reasons, ya'ni, mostly towards her side. But if it's his fault, no. Also, you got to keep in mind, one of the conclusions I learned of that it's good to do high mahr. The main reason is the Prophet صلى الله عليه وسلم himself. He gave always the dowry beforehand although it's permissible to do it. He always did the best. You know how much he gave Umm Salamah? 4.000 dirham. Ya'ni it's a big amount.

## 5. THE MEANING OF MATI'UHUNA [فَمَتَّعُوهُنَّ]

### فَمَتَّعُوهُنَّ

Give them something for their enjoyment in pleasure. Meaning something financial. Why would Allāh say فَمَتَّعُوهُنَّ and give them something for their enjoyment in pleasure? This applies if there's no mahr. Some people could say we decide the mahr later. All of them. The wife could say: "okay, I accept, we decide the mahr later". Assuming the divorce happened – before what they decided what the mahr is – then a Muslim has to pay her something in compensation. What the amount is, it goes up to the imām, the Khalīf or the shaykh, up to what he decides. Some scholars said a dress and something that's equivalent to a month worth of living, you know, how much cost her to live a month, average, and give her a month. You know, it's disputed how much it is but if the mahr is not specified, he has to give her something for enjoyment in pleasure, something financial. What it is, this goes up to the imām or the shaykh.

### 5.1 What if the mahr is specified?

If the mahr is not specified, he has to give her something for enjoyment in pleasure, something the shaykh will decide, what if the mahr is not specified? Who knows?

- Student: half.
- Shaykh: who said half? 'Uthmān? You said half? Someone said half? Half is right. If you pay her the dowry we agreed on, is 5.000 dollars, we divorce before we have sexual relationship, she gets half of that.

### فَنِصْفُ مَا فَرَضْتُمْ

Allāh said in the Qur'an:

### فَنِصْفُ مَا فَرَضْتُمْ

<sup>3</sup> See footnote 2

So, there's a divorce without the mahr being specified you got to give her something for enjoyment in pleasure, the shaykh or the imām or the Khalīfa will specify it. If there is a mahr, you give them half of it.

### مَتَّعُوهُنَّ

What's مَتَّعُوهُنَّ? Enjoy. Pleasure in enjoyment. So, Allāh is saying you give to the woman, who you'll divorce without having any relationship with them something for their pleasure in enjoyment. We'll take about what that means in a second.

## 6. THE MEANINGS OF SARĀHAN JAMĪLAN [سَرَاْحًا جَمِيْلًا]

### سَرَّحُوهُنَّ

The last two words:

### سَرَاْحًا جَمِيْلًا

What's سَرَاْحًا?

- Student: at ease.
- Shaykh: at ease, in a good way. Allāh says: if you want to divorce them, you divorce them but in a good way because I always say: marriage you always enter them nice, but you get out of them very nasty. You know, that's why Allāh says "always", when He talks about divorce, He says: in a good way.

### فَلَا تَعْضِلُوهُنَّ

Some people say: "o, I send her to her mother's house and she'll stay under my control, she can't marry no one else and she stays like that for the rest of her life. I go marry another woman and she's there in her father's house, she can't do nothing. What is she going to do? No one is going to give her a divorce, no one is able to take the divorce from me by force so let her stay like that." So, Allāh says: do it in a nice way. In a manly way. You know, I had a shaykh in Madinah, he's a popular shaykh. His name is 'Atīyah Sālim, he's a judge in Madinah and when he talked about fiqh, he used to bring stories from his court. So, he said: "I had a case where two people wanted to divorce and it was nasty. And you know, they delay it, you want to divorce there, you don't get it immediately. They delay it. Maybe إِنْ شَاءَ اللَّهُ things will work out, give them time to pull out, maybe it's a problem they will fade away". He said: "we give them 6 months. They came back – divorce. Their insistence about divorce." He said; "then I sat them down and remembered Allāh's verse:



## "وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ"

What's that mean, 'Abd-al-Mālik? [Student of the shaykh] Don't forget the goodness that happened. You know, if you look at a marriage relationship, yeah, there's bad things that happened, but there are also good things that happened with each other. You know, there's happy times. When you go to the divorce, you forget all the good times. What you remember? The arguments, the fights, the disputes that happened, the mother in law, the father in law, everything bad that happens that's all that sticks in your mind. Allāh says:

## وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ

He said: "so I began to remind them: did you guys have good times in the past? You know, because they were fighting over money, this and that. Did you guys have good times in the past, remember when you first got married, your first son", he began to reminding them, he made them to talk about it. Then the woman said: "let him have the house" and he said: "let her have this". He said: "okay, we finalize the divorce in three days. Come back here you finalize it and say the divorce word." They came back and they said: "we've solved it, we're not getting in a divorce." See how unique the Qur'an is?

## وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ

One word that saved the marriage. Be kind, be manly, the same way you're manly in marriage, be manly in your divorce.

### 6.1 Can I divorce a woman before marrying her?

If I say to a woman: "if I marry you in the future, you're a divorcee".

- Student: yes.
- Shaykh: she's divorced?
- Student: yeah.
- Shaykh: what's your proof?
- Student: it happened.
- Shaykh: but she's not your wife?
- Student: but still, when you marry her, then you divorce her.
- Shaykh: he's a radical, you're a radical yā kaylānī. Look at the verse:

## إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ

And then you divorce them. This is one of the proof the scholars use, that if you divorce a woman – some stupid person could say, and this happens a lot, "any woman I marry in the future is a divorcee". Some scholars did adopt this opinion, but that's wrong because of this verse. Allāh said:

## نَكْحْتُمْ

marriage, then divorce them. It has to be marriage then divorce. There's also a hadīth to support it: "there's no divorce in something you don't own". Yeah you could say it, but divorce doesn't fall in something you don't own.

They get married and they say: "the dowry, we're going to discuss it in the future", all parties agree we're going to discuss it in the future. They get a divorce before he has a sexual relationship with her. What do you do? There's no mahr specified, you got to give her something for enjoyment in pleasure, you know, that could be anything the imām or the Khalīfa specified. If the mahr is specified, she gets half of it. Allāh said in another verse in Sūrah al Baqarah:

## فنصف ما فرضتم

One half of that what you've given her. 5.000 dollar, she gets half of that. If all these are there [all the steps we do before there's a marriage], that's marriage. He can take her and do with her whatever he wants. She can do whatever she wants. They're husband and wife. There's no ceremony. You don't see a marriage ceremony here. Lot of people think, this is not valid until you have a marriage ceremony. Yes, it's sunnah. Yes, you should have a marriage ceremony, however it's not a pillar of these that you have to have before you can get alone with your wife or have relationship with her. In fact the sunnah of the ceremony is when? Who knows? The real sunnah!

- Student: after marriage
- Shaykh: after marriage, the morning after marriage. That's right. It's not the sunnah like we do, the night before marriage. It's the morning after he has relationship with his wife. That's what we conclude about the last verse. And let me give you a summary.

→ We said that the man should choose a believing woman, the number one, should choose a believing woman and if it happens to choose a non-Muslim woman she must be a pure woman.

→ The second one is that talāq should happen only in necessities. What's the hadīth, do you know the hadīth for that?

- Student: what did you say?
- Shaykh: about talāq. That Allāh Hates talāq.
- Student: o, I know that Allāh doesn't love talāq.
- Shaykh: that's a weak hadīth, that's why I made you say it. \*Shaykh laughs\* you see how I always catch the Kaylānīs, Uthmān?

## أبغض الحلال إلى الله الطلاق

The most hatred thing of halāl to Allāh is divorce. That's a weak and actually fabricated hadīth. How could something be halāl to Allāh and He hates it? That doesn't make sense. Yes, it's not right but it's not hated to Allāh if the measure goes truly, there's no problem with it at all. But that hadīth in itself is not right. Is not authentic.

→ The third point, there's no 'iddah. There's no 'iddah unless what? Unless? There's a sexual relationship.

→ The fourth point is a Muslim must specify an amount for his wife or his ex-wife if he divorces her and the mahr is not set. The end of the verse and this is the last point says:

وَسَرَّحُوهُنَّ سَرَاحًا جَمِيلًا

Let them go in a nice and easy way. Release them handsomely. That's the last point. What do I mean by that point? Usually when divorces get nasty, you know men, especially Muslim men unfortunately do this, they say: "okay, go to your mother's house or your father's house and you know what, I'm not going to divorce you and I'm going to give you a one around for the khula. I'm not going to meet the shaykh." And she goes on, I know women for years ago like that. Some in this country where there's no qādhī, they're stranded, they can't get married, cause they're on the name of the husband, he's not with them, he doesn't support them. That's why Allāh says:

وَسَرَّحُوهُنَّ سَرَاحًا جَمِيلًا

Let them go handsomely. In another verse in Sūrah al Baqarah Allāh says:

فَلَا تَعْضُلُوهُنَّ

You know let a man get jealous over his ex-woman, don't make it hard on them to get remarry again.

فَلَا تَعْضُلُوهُنَّ

Don't make it hard on them. In another verse Allāh says:

إِمْسَاكِ بِمَعْرُوفٍ

You're either together with her nicely or you divorce her peacefully and niceful as well.

إِمْسَاكِ بِمَعْرُوفٍ أَوْ تَسْرِيحٍ بِإِحْسَانٍ

## 7. IS DIHĀR HARĀM?

I don't know if the Pakistāni and Indians have this problem but I know the Arabic people still do it. I mean some of them still have in their brains the stupid things of jāhiliyyah and they tell their wife: "you're like my mother". It's rarely used but the Arabic people still do it. Is dihār harām?

### 7.1 What is dihār?

To say to a woman, your wife: "the relationship between me and you is like my relationship with my mother". That's dihār. Is it harām? Yes, it's haram. Is it a divorce? - How many times can a man divorce his wife? Three, you got the first chance, you divorce her, and you got three months to bring her back. The second one, you divorce her again, you got three months to bring her back. The third time, that's it, she got to leave and you can never bring her back, until she remarried.

### 7.2 What if she marries someone [and the first one wants her back] but they don't have relationship?

Doesn't count, she must have relationship with him. Why does this have to happen? To teach the men a lesson, don't play around, you know. I've a relative, distant relative. If you sit with him for 50 minutes, he divorces his wife over 100 times. "And divorce my wife if you don't bring sugar for the tea for our guests." "My wife is divorced if you don't get up and go to take a walk." and they think this is casual talk, he doesn't know divorce like this is like a gun, if I have a gun and I shoot 'Ādil in his head, can I say: "you know what 'Ādil I was just joking, I didn't mean that." Who I really wanna shoot is Fairūz not 'Ādil [students of the shaykh]. \*Shaykh laughs\* Okay, so, is dihār divorce? No. If someone says that, it's not counted one of the three divorces. Is it harām? Yes, it's harām. Why is it harām? All these three things, the Qur'an came to abolish them, all three of them are harām. It's not a divorce, it's harām.

### 7.3 What if someone says this to his wife? What happens?

Someone tells his wife: "you are to me like my mother". What does he do? Allāh in the Qur'an gives a solution to that in Sūrah al Mujādalah, the first few verses and actually let me tell you the reason behind those verses. A woman came to the Prophet Muhammad صلى الله عليه وسلم, she's an older woman and she said: "O Prophet of Allāh, I was with my husband all his life and during his life I served him, I raised his kids, I did everything he wanted. When my bones became fragile, when I wasn't as beautiful as I was in the old days, he came up to me he said: "you are like my mother to me." And what's the solution to that? And she was in distress and worried, because back in jāhiliyyah if you say that, that's it. They had their rules. If you say it in jāhiliyyah, that's it. So, she came in distress "o, we're done with? That's the end of us?" and she's whispering to the Prophet Muhammad صلى الله عليه وسلم and Ā-ishah – you know, if you've ever been to the Prophet's masjid, and you see

the Prophet's house it's a very small room. The Prophet's house is a very small room. So, she's sitting there and the woman is there, the Prophet صلى الله عليه وسلم is there and 'Ā-ishah is near them and 'Ā-ishah wants to hear what's going on and she can't hear it because the woman is whispering to the Prophet صلى الله عليه وسلم. And of course Allāh heard that without 'Ā-ishah hearing it, Allāh Revealed the first three verses of Sūrah al Mujādalah. The first verses start:

Allāh heard that woman who came to you complaining and complaining about her husband.

وَاللَّهُ يَسْمَعُ تَخَاوَرُكُمَا

Allāh heard the conversation between you two

إِنَّ اللَّهَ سَمِيعٌ بَصِيرٌ

Allāh is the all Hearing, the All Knowledgeable

قَدْ فَرَضَ اللَّهُ

### 7.3 What's the solution?

قَدْ فَرَضَ اللَّهُ لَكُمْ تَحِلَّةَ

There's a solution to it Allāh Says. What's the solution to it? The first thing is you **got to free a slave**. What if you can't free a slave or it's not available? **Fasting two months in a row**. One of the few things in Islām, just like having sexual relationship with a wife in Ramadhān. To teach you a lesson not to do that again. You know it's not easy, 60 days in a row. If you fasted 48 days and then the 49th day you're sick or you couldn't, you got to start all over again. It's not easy. Why? so you won't say that again, you think: "O, I'm not gonna do that, it's not worthy, 60 days". If you can't do it 60 days, **you feed a meal per day, 60 meals in order to compensate for that**. If you do that and you repent to Allāh, she becomes your wife and that's it, that's the Kaffārah [expiation] for diḥār. So, if someone asks you the Kaffārah for diḥār you know it's to free a slave, fast 60 days or pay in compensation for 60 poor people.

### 7.4 What if you do it three times?

If you do it 100 times, it's not a divorce. She can come back to you if you do those Kaffārah we've talked about. You can do that 100 times but get sinned. Why? Islām came to abolish all these. These are trends of jāhiliyyah, Islām came to abolish them.